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HOUSE BILL 849

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO ELECTIONS; ALLOWING A POLITICAL PARTY TO NOMINATE ANY QUALIFIED CANDIDATE TO RUN UNDER ITS PARTY NAME IN AN ELECTION; ALLOWING A CANDIDATE'S NAME TO APPEAR MORE THAN ONCE ON A BALLOT; REPEALING SECTION 1-8-19 NMSA 1978 (BEING LAWS 1975, CHAPTER 255, SECTION 106, AS AMENDED).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-4-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 72, as amended by Laws 1993, Chapter 314, Section 15 and also by Laws 1993, Chapter 316, Section 15) is amended to read:

"1-4-16. REGISTRATION--WHEN PARTY AFFILIATION SHALL NOT BE MADE.--[A-] No designation of party affiliation shall be made or changed on an existing certificate of registration at any time during which registration is closed.

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1 ~~[B. Every person appearing as a candidate on the~~
2 ~~primary or general election ballot shall be a candidate only~~
3 ~~under the name and party affiliation designation appearing on~~
4 ~~his existing certificate of registration on file in the county~~
5 ~~clerk's office on the date of the governor's proclamation of a~~
6 ~~primary election.]"~~

7 Section 2. Section 1-8-2 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 152, as amended) is amended to read:

9 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--CONVENTION-
10 DESIGNATED NOMINEES. --

11 A. If the rules and regulations of a minor
12 political party require nomination by political convention:

13 (1) the chairman and secretary of the state
14 political convention shall certify to the secretary of state
15 the names of their party's nominees for United States senator,
16 United States representative, all elective state offices,
17 legislative offices elected from multicounty districts, the
18 public regulation commission, all elective judicial officers
19 in the judicial department and all offices representing a
20 district composed of more than one county; and

21 (2) the chairman and secretary of the county
22 political convention shall certify to the county clerk the
23 names of their party's nominees for elected county offices and
24 for legislative offices elected from a district located wholly
25 within one county or that is composed of only one county.

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1 B. The names certified to the secretary of state
2 shall be filed on the second Tuesday in July in the year of
3 the general election and shall be accompanied by a petition
4 containing a list of signatures and addresses of voters
5 totaling not less than one percent of the total number of
6 votes cast at the last preceding general election for the
7 office of governor or president of the United States, as the
8 case may be:

- 9 (1) in the state for statewide offices; and
- 10 (2) in the district for offices other than
- 11 statewide offices.

12 The petition shall contain a statement that the voters
13 signing the petition are residents of the state, district,
14 county or area to be represented by the office for which the
15 person being nominated is a candidate.

16 C. The names certified to the county clerk shall
17 be filed on the second Tuesday in July in the year of the
18 general election and shall be accompanied by a petition
19 containing a list of signatures and addresses of voters
20 totaling not less than one percent of the total number of
21 votes cast at the last preceding general election for the
22 office of governor or president of the United States, as the
23 case may be:

- 24 (1) in the county for countywide offices; and
- 25 (2) in the district for offices other than

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1 countywide offices.

2 The petition shall contain a statement that the voters
3 signing the petition are residents of the state, district,
4 county or area to be represented by the office for which the
5 person being nominated is a candidate.

6 ~~[D. Persons certified as nominees shall be members~~
7 ~~of that party before the day the governor issues the primary~~
8 ~~election proclamation.]~~

9 ~~E.]~~ D. No voter shall sign any petition prescribed
10 by this section for more persons than the number of minor
11 party candidates necessary to fill the office at the next
12 ensuing general election. "

13 Section 3. Section 1-8-8 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 158, as amended) is amended to read:

15 "1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING
16 AFTER PRIMARY.--

17 A. If after a primary election a vacancy occurs,
18 for any cause, in the list of nominees of a qualified
19 political party for any public office to be filled in the
20 general election, or a vacancy occurs because of the
21 resignation or death of a person holding a public office not
22 included in the governor's proclamation and which office is
23 required by law to be filled at the next succeeding general
24 election, the vacancy on the general election ballot may be
25 filled by:

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1 (1) the central committee of the state
2 political party filing the name of its nominee for the office
3 with the proper filing officer when [~~such~~] the office is a
4 federal, state, district or multicounty legislative district
5 office; and

6 (2) the central committee of the county
7 political party filing the name of its nominee for the office
8 with the proper filing officer when [~~such~~] the office is a
9 magistrate, county or a legislative district office where the
10 district is entirely within the boundaries of a single county.

11 B. Appointments made pursuant to Subsection A of
12 this section shall [~~be of the same party affiliation as the~~
13 ~~original nominee and~~] reside in the district from which he
14 will be elected as shown by his certificate of registration on
15 file in the county clerk's office before the day of the
16 governor's primary election proclamation.

17 C. Appointments to fill vacancies in the list of a
18 party's nominees shall be made and filed at least fifty-six
19 days prior to the general election. If the vacancy is caused
20 by the death of a nominee, the central committee may in like
21 manner file the name of its nominee to fill the vacancy up
22 until five days prior to the general election.

23 D. When the name of a nominee is filed as provided
24 in this section, [~~such~~] the name shall be placed on the
25 general election ballot as the party's candidate for that

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1 office. In the case of a nominee appointed after the general
2 election ballots are printed, [~~such~~] the name shall be placed
3 on the ballot by pasting the printed name of the nominee over
4 the name of the candidate whose vacancy he fills on the
5 general election ballot."

6 Section 4. Section 1-8-18 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 167, as amended) is amended to read:

8 "1-8-18. PRIMARY ELECTION LAW - WHO MAY BECOME A
9 CANDIDATE. --

10 A. No person shall become a candidate for
11 nomination by a political party or have his name printed on
12 the primary election ballot unless his record of voter
13 registration shows

14 [~~(1) his affiliation with that political~~
15 ~~party on the date of the governor's proclamation for the~~
16 ~~primary election; and~~

17 ~~(2)] his residence in the district of the~~
18 office for which he is a candidate on the date of the
19 governor's proclamation for the primary election or in the
20 case of a person seeking the office of United States senator
21 or United States representative, his residence within New
22 Mexico on the date of the governor's proclamation for the
23 primary election.

24 B. Any voter may challenge the candidacy of any
25 person seeking nomination by a political party for the reason

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1 that he does not meet the residency requirements [of
2 ~~Subsection A~~] of this section by filing a petition in the
3 district court within ten days after the last day for filing a
4 declaration of candidacy or a statement of candidacy for
5 convention designation. The district court shall hear and
6 render a decision on the matter within ten days after the
7 filing of the petition. The decision of the district court
8 may be appealed to the supreme court within five days after
9 the decision is rendered. The supreme court shall hear and
10 render a decision on the appeal forthwith. "

11 Section 5. Section 1-8-21.1 NMSA 1978 (being Laws 1993,
12 Chapter 55, Section 11) is amended to read:

13 "1-8-21.1. DESIGNATION OF CANDIDATES BY CONVENTION. --

14 A. State conventions of major political parties
15 may designate candidates for nomination to statewide office or
16 the office of United States representative.

17 B. No state convention for designating candidates
18 shall be held later than the third Sunday in March preceding
19 the primary election, and delegates to the convention shall be
20 elected according to state party rules filed in the office of
21 the secretary of state.

22 C. The state convention shall take only one ballot
23 upon candidates for each office to be filled. Every candidate
24 receiving twenty percent or more of the votes of the duly
25 elected delegates to the convention for the office to be voted

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1 upon at the ensuing primary election shall be certified to the
2 secretary of state as a convention-designated nominee for that
3 office by the political party. Certification shall take place
4 no later than 5:00 p.m. on the first Tuesday succeeding the
5 state convention.

6 D. The certificate of designation submitted to the
7 secretary of state shall state the name of the office for
8 which each person is a candidate, his name and address and the
9 name of the political party that the candidate represents [and
10 ~~shall certify that the candidate has been a member of that~~
11 ~~political party for the period of time required by the~~
12 ~~Election Code]. "~~

13 Section 6. Section 1-8-27 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 172, as amended) is amended to read:

15 "1-8-27. PRIMARY ELECTION LAW - DECLARATION OF
16 CANDIDACY - MANNER OF FILING. -- Each declaration of candidacy,
17 by nominating petition or by preprimary convention
18 designation, shall be delivered for filing in person by the
19 candidate therein named or by a person acting, by virtue of
20 written authorization, solely on the candidate's behalf. [The
21 ~~proper filing officer shall not accept for filing more than~~
22 ~~one declaration of candidacy from any one individual, except~~
23 ~~that candidates who seek but fail to receive preprimary~~
24 ~~convention designation shall file a declaration of candidacy~~
25 ~~by nomination, according to provisions of the Primary Election~~

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1 ~~Law, to have their names placed on the primary election~~
2 ~~ballet.]"~~

3 Section 7. Section 1-8-30 NMSA 1978 (being Laws 1973,
4 Chapter 228, Section 4, as amended) is amended to read:

5 "1-8-30. PRIMARY ELECTION LAW - DECLARATION OF
6 CANDIDACY - - NOMINATING PETITION - - FILING AND FORM - -

7 A. As used in the Primary Election Law,
8 "nominating petition" means the authorized form used for
9 obtaining the required number of signatures of voters, which
10 is signed on behalf of the person wishing to become a
11 candidate for a political office in the primary election
12 requiring a nominating petition.

13 B. In making a declaration of candidacy, the
14 candidate at the same time shall file a nominating petition,
15 which shall be on forms prescribed by law.

16 C. The nominating petition shall be on paper
17 approximately eight and one-half inches wide and fourteen
18 inches long with numbered lines for signatures spaced
19 approximately three-eighths of an inch apart and shall be in
20 the following form:

21 "NOMINATING PETITION

22 I, the undersigned, a registered voter of the
23 county of _____, New Mexico, and a member
24 of the _____ party, hereby nominate
25 _____, who resides at

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1 _____ in the county of _____,
2 New Mexico, for the _____ party nomination
3 for the office of _____, to be voted for
4 at the primary election to be held on the first
5 Tuesday of June, [~~19~~] 20 _____, and I declare that
6 I am a resident of the state, district, county or
7 area to be represented by the office for which the
8 person being nominated is a candidate. I also
9 declare that I have not signed, and will not sign,
10 any nominating petition for more persons than the
11 number of candidates necessary to fill such office
12 at the next ensuing general election.

- 13 1. _____
14 (usual (name printed (address as (city or
15 signature) as registered) registered) rt. no.)
- 16 2. _____
17 (usual (name printed (address as (city or
18 signature) as registered) registered) rt. no.)."

19 D. In October of odd-numbered years, the secretary
20 of state shall furnish to each county clerk a sample of a
21 nominating petition form, a copy of which shall be made
22 available by the county clerk upon request of any candidate.

23 E. The signature of the voter shall not be counted
24 unless the voter was a registered member of the [candidate's]
25 party whose nomination the candidate is seeking ten days prior

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1 to the filing of the nominating petition. The signature of
2 the voter shall not be counted unless the entire line
3 indicates the voter's usual signature, his name printed as
4 registered and his address as registered and his city or route
5 number and is upon the form furnished by the secretary of
6 state to the county clerks or a duplicate thereof.

7 F. When more than one sheet is required for a
8 petition, each of the sheets shall be in the form prescribed
9 by this section and all sheets shall be firmly secured by a
10 staple or other suitable fastening. "

11 Section 8. Section 1-8-31 NMSA 1978 (being Laws 1973,
12 Chapter 228, Section 5, as amended by Laws 1993, Chapter 314,
13 Section 47 and also by Laws 1993, Chapter 316, Section 47) is
14 amended to read:

15 "1-8-31. PRIMARY ELECTION LAW - NOMINATING PETITION - -
16 SIGNATURES TO BE COUNTED. - -

17 A. Each signer of a nominating petition shall sign
18 but one petition for the same office unless more than one
19 candidate is to be elected to such office, and in that case
20 not more than the number of nominating petitions equal to the
21 number of candidates to be elected to the office shall be
22 signed.

23 B. A signature shall be counted on a nominating
24 petition unless there is evidence presented that the person
25 signing:

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1 (1) is not a voter of the state, district,
2 county or area to be represented by the office for which the
3 person seeking the nomination is a candidate;

4 (2) has signed more than one petition for the
5 same office, except as provided in Subsection A of this
6 section, or has signed one petition more than once;

7 (3) is not of the same political party as the
8 ~~[candidate]~~ party named in the nominating petition as shown by
9 the signer's certificate of registration; or

10 (4) is not the person whose name appears on
11 the nominating petition.

12 C. The procedures set forth in this section shall
13 be used to validate signatures on any petition required by the
14 Election Code. "

15 Section 9. Section 1-8-33 NMSA 1978 (being Laws 1973,
16 Chapter 228, Section 7, as amended) is amended to read:

17 "1-8-33. PRIMARY ELECTION LAW - NOMINATING PETITION - -
18 NUMBER OF SIGNATURES REQUIRED. - -

19 A. As used in this section, "total vote" means the
20 sum of all votes cast for all of the party's candidates for
21 governor at the last preceding primary election at which the
22 party's candidate for governor was nominated.

23 B. Candidates who seek preprimary convention
24 designation shall file nominating petitions at the time of
25 filing declarations of candidacy. Nominating petitions for

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1 those candidates shall be signed by a number of voters equal
2 to at least two percent of the total vote of the [~~candidate's~~]
3 party whose nomination the candidate is seeking in the state
4 or congressional district, or the following number of voters,
5 whichever is greater: for statewide offices, two hundred
6 thirty voters; and for congressional candidates, seventy-seven
7 voters.

8 C. Nominating petitions for candidates for any
9 other office to be voted on at the primary election for which
10 nominating petitions are required shall be signed by a number
11 of voters equal to at least three percent of the total vote of
12 the [~~candidate's~~] party whose nomination the candidate is
13 seeking in the district or division, or the following number
14 of voters, whichever is greater: for metropolitan court and
15 magistrate courts, ten voters; for the public regulation
16 commission, fifty voters; for the state board of education,
17 twenty-five voters; for state representative, ten voters; for
18 state senator, seventeen voters; and for district attorney and
19 district judge, fifteen voters.

20 D. A candidate who fails to receive the preprimary
21 convention designation that he sought may collect additional
22 signatures to total at least four percent of the total vote of
23 the [~~candidate's~~] party whose nomination the candidate is
24 seeking in the state or congressional district, whichever
25 applies to the office he seeks, and file a new declaration of

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1 candidacy and nominating petitions for the office for which he
2 failed to receive a preprimary designation. The declaration
3 of candidacy and nominating petitions shall be filed with the
4 secretary of state either ten days following the date of the
5 preprimary convention at which he failed to receive the
6 designation or on the date all declarations of candidacy and
7 nominating petitions are due pursuant to the provisions of the
8 Primary Election Law, whichever is later. "

9 Section 10. Section 1-10-7 NMSA 1978 (being Laws 1977,
10 Chapter 222, Section 30, as amended) is amended to read:

11 "1-10-7. BALLOTS--NAME SHALL APPEAR BUT ONCE--
12 EXCEPTIONS.--Except in the case of a candidate for United
13 States senate or United States representative who is also a
14 candidate for president or vice president of the United
15 States, or a candidate who has been nominated for an elective
16 office by more than one political party, no candidate's name
17 shall appear more than once on the ballot. [~~Whenever a person~~
18 ~~is, with his knowledge and consent, a candidate at any~~
19 ~~nominating convention or primary for nomination as the~~
20 ~~candidate of any political party for any office to be voted on~~
21 ~~at the election to be held next after such convention or~~
22 ~~primary, his name shall not be printed on the ballot at such~~
23 ~~election except in the column under the party name and emblem~~
24 ~~of the party designated on his declaration of candidacy or~~
25 ~~statement of candidacy for convention designation.]"~~

